



## Ohio Solid Waste Land Disposal rules as an ARAR

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09/16/2009 10:43 AM

Cc: RONALD MURAWSKI, Jaffess.Sharon

Mark,

Please let me summarize below the Region's position on the Ohio Solid Waste Landfill Disposal rules as an ARAR at the Tremont Barrel Fill site. You and I have had a number of conversations about this matter in the past, and I hope that I have been effective in my communication during those conversations. I do not think it will productive to have yet another conversation about it; but thought it would be worthwhile to explain the Region's position again, in writing this time; and with some reference materials.

Tremont alternatives 4a, 4b, 5, 5a, and 5b call for onsite management of non-hazardous solid wastes, after separation of these wastes from the hazardous wastes in the Barrel Fill. The management of the non-hazardous solid wastes will occur onsite, in an area consisting of continuous contamination of varying amounts and types at the Barrel Fill CERCLA site (ie., the full Barrel Fill site area). The area in which these non-hazardous wastes will be managed therefore is equated with an area of contamination (AOC); and movement within the AOC does not constitute placement. (See NCP Preamble 55 FR 8758-8760). Since the non-hazardous waste is not being "placed", it is not being "disposed", (See March 13, 1995 OSWER memorandum, *Use of the Area of Contamination (AOC) Concept During RCRA Cleanups*, page 1; and OSWER Directive 9234.2-04FS, October 1989, *RCRA ARARs: Focus on Closure Requirements*, pages 3 and 4; both attached) therefore the Ohio regulations for a solid waste disposal facility is not an ARAR for the on-site management of the Tremont non-hazardous solid wastes. We do agree that the management of the non-hazardous wastes would be subject to the closure requirements of Ohio rules for management of this type of waste.

We can and have considered whether is it appropriate to design an onsite disposal unit, fully consistent with Ohio rules for solid waste disposal facilities, for the Tremont non-hazardous solid wastes. Given the low hydraulic conductivity of the natural materials at the Barrel Fill, and the fact that after 3 decades of holding very high volumes of highly mobile hazardous wastes (liquids) there are little/no releases of hazardous constituents to the surrounding area; we believe that it is not appropriate to require a liner for the management of the non-hazardous solid wastes.

This rationale for determining whether solid waste disposal rules are ARARs at the Tremont Barrel Fill is consistent with the rationale used at other Ohio CERCLA sites where the disposal rules were determined to not be ARARs. At the Vandale Junkyard site for example, we consolidated both hazardous and non-hazardous solid wastes onsite without triggering the requirements of a hazardous or solid waste disposal facility.

I have looked more closely at the most recent draft of the Tremont Barrel Fill ARARs table. ORC 3734 governs solid waste closure as well as disposal; and while our position is that the disposal rules are not ARARs, we believe that the closure rules are ARARs. This clarification should be made on the ARARs table, and I will work with Ron to see that clarification is made.

This is my best effort at again explaining this matter to you. I have held discussions with both my acting Branch Chief, Sharon Jaffess, and my Division Director, Rick Karl about the Region's position. They both understand and support this position.



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